

Message Text

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43

ORIGIN EB-11

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L/T - MR. BEVANS

L/EB - MR. GAITHER

CAB - MR. BURCH

CAB - MR. CHESEN

EUR/CE - MR. FLATIN

----- 030504

O 051630Z JUN 74

FM SECSTATE WASHDC

TO AMEMBASSY BERN IMMEDIATE

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E.O. 11652: N/A

TAGS: ETRN, SW

SUBJECT: CIVAIR: EXCHANGE OF LETTERS ON CHARTERS

REF: A) BERN 2013; B) STATE 76243; C) BERN 1448

1. SWISS AGREEMENT TO PUT ASIDE FOR TIME BEING QUESTION OF INCLUSIVE TOUR CHARTERS (ITC'S) CLEARLY PROVIDES BASIS FOR SATISFACTORY EXCHANGE OF LETTERS ON CHARTER OPERATIONS. HOWEVER, INASMUCH AS GULDIMANN LETTER OF MARCH 28 CONTAINS NUMEROUS REFERENCES TO ITC'S, PARTICULARLY WITH REGARD TO COMMINGLING (COMBINING) ON SAME AIRCRAFT ITC'S WITH OTHER CHARTER TYPES, IT WILL BE NECESSARY NOT ONLY TO DELETE PARA 3, PART A, ON "INCLUSIVE TOUR CHARTERS" BUT ALSO TO MAKE OTHER MINOR TEXTUAL CHANGES (SEE BELOW).

2. IT SHOULD BE NOTED THAT EFFECT OF PROPOSED EXCHANGE OF LETTERS, WHICH IS SILENT ON QUESTION OF ITC'S, WOULD
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BE TO PROHIBIT THAT PART OF ADVANCE BOOKING CHARTER (ABC)

PROGRAM PLANNED BY BALAIR FOR REMAINDER OF CALENDAR YEAR 1974, SINCE MAJOR PORTION OF ITS ABC PROGRAM CONTEMPLATES COMMINGLING ABC'S WITH ITC'S ON SAME AIRCRAFT (AND PARA A. 12 OF REVISED GULDIMANN LETTER--SEE BELOW--WILL CITE ONLY "MIXING ADVANCE BOOKING CHARTERS WITH AFFINITY CHARTERS".) CIVIL AERONAUTICS BOARD IS PREPARED, HOWEVER, IN ORDER ACCOMMODATE GOS, TO GRANT BALAIR BLANKET WAIVER OF ITS TRAVEL GROUP CHARTER (TGC) RULES THROUGH END OF YEAR TO PERMIT BALAIR TO COMBINE ABC'S WITH ITC'S AND THUS

TO CARRY OUT ITS ABC PROGRAM AS PROJECTED. IN ADDITION, BALAIR'S NEW FOREIGN AIR CARRIER PERMIT WILL AUTHORIZE CARRIAGE OF ITC'S PURSUANT TO SWISS RULES, THUS COMPLETING USG AUTHORIZATION BALAIR WILL NEED FOR THESE FLIGHTS. THEREFORE, EMBASSY IS REQUESTED TO PASS FOREGOING TO SWISS, AND PROPOSE THAT LETTERS ON OTHER CHARTER OPERATIONS BE EXCHANGED ASAP ON ORAL UNDERSTANDING THAT:

A. WITH EXCEPTION OF THE WAIVER TO BE GRANTED BALAIR, THE U.S. CANNOT ACCEPT THE COMMINGLING OF ABC'S AND/OR SWISS ORIGIN AFFINITY CHARTERS WITH SWISS ORIGIN ITC'S; AND

B. INASMUCH AS EXCHANGE OF LETTERS WILL PERMIT SWISS ORIGIN FLIGHTS TO OPERATE SOLELY UNDER SWISS CHARTERWORTHINESS RULES (RATHER THAN UNDER BOTH SWISS AND U.S. CHARTERWORTHINESS RULES AS AT PRESENT), BOTH U.S. AND SWISS AIRLINES WILL BE REQUIRED TO APPLY FOR WAIVERS OF CAB TRAVEL GROUP CHARTER (TGC) RULES OR AFFINITY CHARTER RULES, TO THE EXTENT THAT ANY ABC OR AFFINITY FLIGHT, OR PROGRAM OF FLIGHTS ORIGINATED IN SWITZERLAND UNDER SWISS RULES, DOES NOT CONFORM TO CAB RULES. THIS IS PRO FORMA PROCEDURE, WELL UNDERSTOOD BY AIRLINES, WHICH THE USG USES TO IMPLEMENT TYPE OF AGREEMENT DESCRIBED IN PROPOSED EXCHANGE OF LETTERS. INASMUCH AS MEADOWS IS OUT OF COUNTRY, GULDIMANN LETTER SHOULD BE ADDRESSED TO DEPUTY ASSISTANT SECRETARY RAYMOND J. WALDMANN.

3. TEXT OF PROPOSED GULDIMANN LETTER: "JUNE(), 1974

DEAR MR. WALDMANN: REFERRING TO THE DISCUSSIONS EARLIER LIMITED OFFICIAL USE

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THIS YEAR BETWEEN REPRESENTATIVES OF OUR TWO GOVERNMENTS REGARDING THE APPLICATION OF THE RULES OF ORIGIN TO CHARTER TRAFFIC BETWEEN OUR TWO COUNTRIES, WE ARE SETTING FORTH BELOW THE RULES UNDER WHICH CHARTERS ORIGINATING IN SWITZERLAND WILL OPERATE.

A. WE INTEND TO AUTHORIZE ADVANCE BOOKING CHARTERS AND AFFINITY CHARTERS AS FOLLOWS:

(1) ADVANCE BOOKING CHARTERS: ADVANCE BOOKING CHARTERS MUST BE CONSISTENT WITH THE "DEFINITION AND MAIN CONDITIONS" SET FORTH IN THE RECOMMENDATION ADOPTED BY THE FIFTH INTERMEDIATE SESSION (SPECIAL) OF ECAC, WITH THE FOLLOWING EXCEPTIONS:

1.1 60-DAY ADVANCE FILING OF PASSENGER LIST.

1.2 PERMISSION FOR MIXING ADVANCE BOOKING CHARTERS WITH AFFINITY CHARTERS.

(2) AFFINITY CHARTER FLIGHTS: AFFINITY CHARTER FLIGHTS ORIGINATING IN SWITZERLAND MUST MEET THE FOLLOWING REQUIREMENTS:

2.1 THE ASSOCIATION HAS PRINCIPAL PURPOSES, AIMS AND OBJECTIVES OTHER THAN TRAVEL AND SUFFICIENT PRIOR AFFINITY TO DISTINGUISH IT AND SET IT APART FROM THE GENERAL PUBLIC;

2.2 THE ASSOCIATION HAS A PERMANENT CHARACTER AND HAS BEEN IN EXISTENCE FOR AT LEAST TWO YEARS;

2.3 THE TOTAL MEMBERSHIP OF THE ASSOCIATION DOES NOT EXCEED 50,000;

2.4 NO PART OF THE CAPACITY OF THE AIRCRAFT IS SOLD TO PERSONS OUTSIDE THE ASSOCIATION;

2.5 THE PASSENGERS OF THE FLIGHT HAVE BEEN MEMBERS OF THE ASSOCIATION FOR AT LEAST 6 MONTHS PRECEDING THE FLIGHT (OR BE IN THE FAMILY OF SUCH MEMBERS);
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2.6 THE FLIGHTS ARE ADVERTISED ONLY TO MEMBERS OF THE ASSOCIATION;

2.7 A GROUP CONSISTS OF AT LEAST 40 PASSENGERS AND THEY TRAVEL TOGETHER BOTH ON THE OUTWARD AND RETURN PORTIONS OF THE JOURNEY;

2.8 WHEN SEVERAL GROUPS TRAVEL ON THE SAME AIRCRAFT, EACH GROUP CONFORMS TO THE ABOVE CRITERIA;

2.9 A PASSENGER LIST IS FILED WITH THE AERONAUTICAL AUTHORITY AT LEAST 30 DAYS BEFORE THE DEPARTURE OF THE FLIGHTS AND SUBSTITUTION OF PASSENGERS IS ACCEPTED ONLY IN CASES OF "FORCE MAJEURE".

(3) ENFORCEMENT

WE SHALL ENSURE LEGAL ENFORCEMENT OF THE RULES SET FORTH ABOVE AND THEREBY FOLLOW AS FAR AS POSSIBLE THE ADMINISTRATIVE AND ENFORCEMENT PROCEDURE OUTLINED IN THE "MEMORANDA OF UNDERSTANDING" BETWEEN THE UNITED STATES AND SOME EUROPEAN COUNTRIES CONCERNING "ADVANCE CHARTERS". CONTROL OR SURVEILLANCE OF TARIFFS FOR THE CATEGORIES OF FLIGHTS DESCRIBED IN PARAGRAPHS 1 AND 2 ABOVE ARE HOWEVER INCONSISTENT WITH OUR PRESENT AIR NAVIGATION

LAW AND ENFORCEMENT IS THEREFORE NOT POSSIBLE. THE RULES MENTIONED IN PARAGRAPHS 1 AND 2 ABOVE ARE SUBJECT TO MODIFICATION. ANY SUCH MODIFICATIONS WILL BE BROUGHT TO YOUR ATTENTION.

B. WE HAVE EXAMINED THE ECONOMIC REGULATIONS AND SPECIAL REGULATIONS OF THE U.S. CIVIL AERONAUTICS BOARD REGARDING CHARTER FLIGHTS AND ARE WILLING TO ACCEPT AS CHARTERWORTHY FLIGHTS ORIGINATED IN THE UNITED STATES AND ORGANIZED AND OPERATED CONSISTENTLY WITH THOSE RULES.

C. IF THESE ARRANGEMENTS ARE ACCEPTABLE TO YOU, I PROPOSE THAT THEY BE PLACED IN EFFECT ON THE DATE OF YOUR REPLY, AND THAT THEY REMAIN IN EFFECT THROUGH 31ST DECEMBER LIMITED OFFICIAL USE

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1975. SINCERELY, PROF. DR. W. GULDIMANN, DIRECTOR OF THE FEDERAL AIR OFFICE."

4. TEXT OF PROPOSED U.S. LETTER: "DEAR MR. GULDIMANN: I AM REPLYING TO YOUR LETTER OF JUNE (), 1974 WITH REGARD TO THE APPLICATION OF THE RULES OF COUNTRY OF ORIGIN TO CHARTER TRAFFIC BETWEEN OUR TWO COUNTRIES. THE PROPOSED ARRANGEMENTS ARE SATISFACTORY TO THE U.S. AUTHORITIES, AND I AGREE THAT THEY SHOULD BE PLACED INTO EFFECT ON TODAY'S DATE. RAYMOND J. WALDMANN, DEPUTY ASSISTANT SECRETARY OF STATE FOR TRANSPORTATION AND TELECOMMUNICATIONS.

5. IF LETTERS ARE ACCEPTABLE TO SWISS, WE WILL AUTHORIZE EXCHANGE TO TAKE PLACE ASAP. KISSINGER

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